

offenders have decreased over time, White offenders' sentence length has decreased more than Black offenders' sentence length."

And in considering racial disparities in the criminal justice area, the race of the victims must also be considered. Despite reductions in homicides nationwide in recent years to levels not seen since the 1960s, this is not true for the number of homicides of African-Americans. "The number of black male murder victims rose more than 10 percent from 2000 to 2010, to 5,942 from 5,307," according to the Wall Street Journal.

Two areas that the Attorney General has said are criminal enforcement priorities also exhibit disparities. These are financial crimes and child pornography possession. As I have said many times before, I wish the Department would prosecute even one of the executives of the major financial firms whose criminal conduct contributed to the financial crisis.

These two criminal fields both tend to involve White male defendants. Too often, the sentences imposed are too lenient. In addition, these crimes do not carry mandatory minimum sentences. We should consider imposing mandatory minimum sentences for these offenses, both to reduce racial disparities and to give prosecutors additional tools to combat these serious crimes. Since Booker, there have been press reports of people who have been convicted of financial fraud who have received very lenient sentences, far below the guidelines. That is leading to disparity.

One report showed that there have been so many financial fraudsters in New York who have been sentenced merely to probation that lawyers for newly convicted fraudsters have argued that to avoid disparities, their clients must also receive probation. Other press accounts have shown financial criminals who have persuaded judges that the financial benefits these criminals have provided to needy people should be considered to lighten their sentences. No poor defendant would be able to reduce his sentence based on using a portion of his ill-gotten gains to help others.

Another set of defendants who in the post-Booker world have received very lenient sentences is those who are convicted of child pornography possession. Too many judges are lenient in their sentencing. Too often we are seeing that unless the defendant actually molested a child, a judge doesn't impose a serious punishment. More than other Federal crimes, defendants in financial and child pornography cases tend to be White males. Too many judges have given these criminals only a slap on the wrist. After Booker, the only way Congress can control the abuse of discretion that judges are showing in these cases is through imposition of a mandatory minimum sentence.

The Attorney General announced a new policy of not charging certain de-

fendants with crimes that carry mandatory minimum sentences. That raises concerns. Withholding quantities of drugs from indictments may not have the effect he desires, since the judge will know the quantity in any event when the presentencing report is received. The judge can still take that into account when sentencing. Moreover, a dangerous precedent may be established by not charging the greatest offense that can be proved.

All Federal crimes now are typically prosecuted at the highest level that can result in a conviction, unless a plea agreement is reached. This reduces prosecutorial discretion and disparity in charging and sentencing. I hope that the new policy will not be applied or extended in a way that would increase disparity.

Mandatory minimum sentences are not new. The first Congress enacted mandatory minimum sentences in 1790.

Nor are they as inflexible as they are often characterized. According to the sentencing commission, almost half of all offenders convicted of an offense carrying a mandatory minimum sentence are not given such a sentence.

We hear over and over that mandatory minimum sentences are one size fits all. We hear that low level and first time offenders always receive harsh sentences. Not so. The safety valve provision requires judges not to impose mandatory minimum sentences for first time, low-level, nonviolent drug offenders, who have provided all information to the authorities. Mandatory minimum sentences are not imposed on many other offenders because they provide substantial assistance to the government in prosecuting more serious criminals.

Congress in 2010 also passed legislation reducing mandatory minimum sentences for certain crack cocaine offenses. Contrary to standard rules of statutory construction, that law has been interpreted to apply retroactively to people who committed their crimes before enactment of the law. We need to keep that in mind for any sentencing legislation we might enact.

The combination of mandatory minimum sentences and a reduction for substantial assistance provides investigative leads against bigger fish. It is a benefit of mandatory minimum sentences that is not always appreciated. Were we to meaningfully cut back on mandatory minimums, we would lose the ability to bring prosecutions against a large number of major criminals. We should always consider what crimes should carry mandatory minimum sentences and what the length of those sentences should be. But for the reasons I have outlined, it would be a serious mistake to eliminate mandatory minimum sentences, either wholesale or for a class of drug offenses.

I am also troubled by a document the Attorney General released along with his speech entitled, "Smart on Crime."

In that document the Department favors diversion and supervision rather

than incarceration for what it terms low-level, non-violent offenders. The Department says it encourage U.S. Attorneys to use "best practices" of diversion for non-violent offenders and supervision for more serious offenders. The document says, "Examples of eligible defendants are those charged with non-violent bank robberies." What bank robberies does the Attorney General think are non-violent? If a person hands the teller a note that says, "I have a gun, hand over the money," but he does not actually have a gun, is that a non-violent offense? No, it is not. Robbery always involves violence or the threat of violence. There is no such thing as a non-violent bank robbery. Those who commit that crime should go to jail, not be released back into the community under supervision, as the Department is advocating.

There is a danger that some of what the Attorney General is proposing is unjustified leniency and would harm public safety.

Madam President, I appreciate that the Attorney General has offered ideas on sentencing. I agree with some. Others are misguided, even dangerous. I will work with him where I can. But we cannot have a proper debate on sentencing reform without understanding how we have reached our current situation, why unwarranted disparities exist, and what changes in sentencing would improve rather than harm the situation.

The Judiciary Committee will hold a hearing on mandatory minimum sentences and proposed legislation on Wednesday. As I have stated, there are some common misunderstandings on this subject. I hope that more clarity will emerge as a result of the hearing.

CROSSROADS CHURCH

Mr. PORTMAN. Madam President, today I wish to congratulate Crossroads Church on 50 years of ministry in Pickaway County, OH. The Crossroads Church held its first service in 1963 under the leadership of Rev. Roy Ferguson.

Crossroads Church was created as an extension of Circleville First Church to provide ministry in the growing community. In 1998, as it continued to grow, the church purchased 71 acres just east of the city of Circleville. In October 2001, Crossroads Church opened its doors for the first service at the new spacious location.

Crossroads Church remains grounded in the traditions of the Christian faith. Today, I congratulate all who have been involved in the first 50 years of ministry to Circleville.

ADDITIONAL STATEMENTS

THORNTON, NEW HAMPSHIRE

• Ms. AYOTTE. Madam President, today I wish to honor Thornton, NH—a town in Grafton County that is celebrating the 250th anniversary of its